



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
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**CITY OF NEWPORT BEACH
ZONING ADMINISTRATOR STAFF REPORT**

November 27, 2013
Agenda Item No. 2:

SUBJECT: 1509 East Bay Avenue Tentative Parcel Map - (PA2013-208)
1509 East Bay Avenue
▪ Tentative Parcel Map No. NP2013-028
▪ County Tentative Parcel Map No. 2013-167

APPLICANT: Jeri Kochis

PLANNER: Benjamin M. Zdeba, Assistant Planner
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ZONING DISTRICT/GENERAL PLAN

- **Zone:** R-1 (Single-Unit Residential)
- **General Plan:** RS-D (Single-Unit Residential Detached)

PROJECT SUMMARY

A tentative parcel map to create two separate parcels for single-family developments. The subject property currently consists of four legal lots, portions of two lots, and an abandoned right-of-way. It is currently developed with a single-family residence.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Draft Zoning Administrator Resolution No. ZA2013-____ approving Tentative Parcel Map No. NP2013-028 (Attachment No. ZA 1).

DISCUSSION

- The 10,971-square-foot property slopes downward towards the bay and is partially submerged on the northern side with access taken from the East Bay Avenue alleyway at the southern end. It is currently developed with a single-family residence that was constructed in 1951.
- The subject property is 75 feet wide, has a westerly depth of 141.42 feet and an easterly depth of 151.40 feet, and is comprised of four legal underlying lots, two portions of lots, and an abandoned right-of-way.
- The proposed Parcel Map will re-subdivide the property into a 45-foot-wide parcel of land (6,489 square feet) and a 30-foot-wide parcel of land (4,482 square feet), both suitable for a single-family development.
- All existing improvements on the property will be demolished prior to recordation of the Parcel Map.

ENVIRONMENTAL REVIEW

The project is categorically exempt under Section 15315, of the State CEQA (California Environmental Quality Act) Guidelines - Class 15 (Minor Land Divisions). Class 15 consists of the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent. The project is a residential subdivision creating two parcels for single-family residential developments which will be in conformance with the General Plan and zoning. Furthermore, the project site was not involved in a division of larger parcels and does not have an average slope of greater than 20 percent.

PUBLIC NOTICE

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days before the scheduled hearing, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

APPEAL PERIOD

An appeal may be filed with the Director of Community Development within 10 days following the date of action. For additional information on filing an appeal, contact the Planning Division at (949) 644-3200.

Prepared by:



Benjamin M. Zdeba
Assistant Planner

GR/bmz

Attachments:	ZA 1	Draft Resolution
	ZA 2	Vicinity Map
	ZA 3	Tentative Parcel Map No. NP2013-028
		County Tentative Parcel Map No. 2013-167

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2013-____

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2013-028 FOR A SUBDIVISION LOCATED AT 1509 EAST BAY AVENUE (PA2013-208)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Jeri Kochis, with respect to property located at 1509 East Bay Avenue, and legally described as Lots 4,5 and West ½ Lot 6, Block 24, together with Lots 4,5 and West ½ Lot 6, Block O, together with Bay Avenue as vacated as shown on Bayfront Section, M.M. 6/15, requesting approval of a tentative parcel map.
2. The applicant proposes a tentative parcel map to create two separate parcels for single-family developments. The subject property currently consists of four legal lots, portions of two lots, and an abandoned right-of-way. It is currently developed with a single-family residence.
3. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached - (6.0 - 9.9 DU/AC) (RSD-B).
5. A public hearing was held on November 27, 2013 in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. The project is categorically exempt under Section 15315, of the State CEQA (California Environmental Quality Act) Guidelines - Class 15 (Minor Land Divisions).
2. Class 15 consists of the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent. The project is a residential subdivision creating two parcels for single-family residential developments which will be in conformance with the General Plan and

zoning. Furthermore, the project site was not involved in a division of larger parcels and does not have an average slope of greater than 20 percent.

SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the proposed Parcel Map is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps) of Title 19:

Finding:

A. That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code.

Facts in Support of Finding:

1. The proposed Parcel Map is for the purpose of subdividing property consisting of four legal underlying lots, portions of two lots, and an abandoned right-of-way into two parcels for single-family developments.
2. There is an existing single-unit dwelling located on the subject parcel which is required to be demolished prior to the recordation of the map to avoid violations of the Building and Zoning Codes.
3. Future development of the proposed lots is required to comply with the Municipal Code and must be consistent with the use and development standards of the R-1 (Single-Unit Residential) Zoning District. One unit on each newly created parcel is allowed consistent with the current Zoning and General Plan Land and Coastal Land Use Plan land use designations allowing "Single-Unit Residential Detached".
4. The new parcels do not meet the minimum lot width requirement of 50 feet and area requirement of 5,000 square feet set forth in Title 20 (Zoning) for new subdivisions; however, the width and area are consistent with typical lots in the area. Deviations from the lot design standards (lot width and area standards established by the Zoning Code) can only be approved by making specific findings in accordance with Section 19.24.050.A. Those findings and the facts that support them are enumerated below and are incorporated by reference. Conditions of approval have been incorporated to require all necessary public improvements including, but not limited to, street, drainage, sidewalk and utility laterals to support the proposed subdivisions in accordance with the Subdivision Code.

Finding:

B. That the site is physically suitable for the type and density of development.

Facts in Support of Finding:

1. The site is currently developed with a single-family structure that crosses over underlying legal lot lines. The proposed Parcel Map would subdivide the lot into two parcels for two single-family developments.
2. The site is sloped less than 20 percent and is suitable for the development of two residences.

Finding:

C. *That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Facts in Support of Finding:

1. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 15 (Minor Land Divisions) which allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are presently available, the property was not involved in a division of a larger parcel within the previous 2 years, and the property does not have an average slope greater than 20 percent. The project site does not contain significant biological resources as it is currently developed with a single residential unit.

Finding:

D. *That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.*

Facts in Support of Finding:

1. The proposed Parcel Map would subdivide a property consisting of two full, legal lots, portions of two abutting lots, and an abandoned right-of-way into two lots for the purpose of developing two new single-unit dwellings. All construction for the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the developer per Section 19.28.010 of the Municipal Code and Section

66411 of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

E. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.

Facts in Support of Finding:

1. The design of the development will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development as there are no public easements that are located on the property.

Finding:

F. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.

Facts in Support of Finding:

1. The project site is not subject to a Williamson Act contract as it is developed with a single-family residence where no agricultural resources are present.

Finding:

G. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) There is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area.

Facts in Support of Finding:

1. The property is not a "land project" as defined in Section 11000.5 of the California Business and Professions Code, and is not located within a specific plan area.

Finding:

H. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.

Facts in Support of Finding:

1. The proposed Parcel Map and improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

I. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.

Facts in Support of Finding:

1. The proposed Parcel Map is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need. The residential density on the proposed lots is consistent with the number of units allowed in the R-1 Zoning District. No affordable housing units are being eliminated since the previously existing single-unit dwelling was not occupied by a low or moderate income household.

Finding:

J. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.

Facts in Support of Finding:

1. Wastewater discharge into the existing sewer system will not violate Regional Water Quality Control Board (RWQCB) requirements because a single-unit dwelling would be developed on each proposed lot.

Finding:

K. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.

Facts in Support of Finding:

1. The subject property is located within the Coastal Zone, and there is no public access or recreation area located on the site. The proposed subdivision would be consistent with the policies of the certified Local Coastal Program Land Use Plan.

Deviation from Design Standards

Per Section 19.24.050.A of Title 19 (Lot Design, Lot Size), new subdivisions must meet the applicable zoning district regulations stated in Title 20 (Zoning Code). Deviation from the design standards set forth in Chapter 19 of Title 19 may be approved by the Zoning Administrator subject to specific findings stated per Section 19.24.130.C. The proposed subdivision would create lots which would not meet the lot width and lot area standards required by the Zoning Code for new subdivisions within the R-1 Zoning District. The Zoning Code requires new subdivision lots to be 50 feet wide, and have a lot area of 5,000 square feet. The proposed parcels of land are 35 feet wide with an area of 4,130 square feet. The required findings to deviate from the standards and facts in support of those findings are as follows:

Finding:

- A. The requested deviations will create a land plan or development design equal or superior to that under the baseline design standards in this Chapter.*

Facts in Support of Finding:

1. The proposed lots are comparable in width, length, and area to the original subdivision which was comprised of 30-foot-wide by 85-foot-deep lots.
2. The existing lot orientation with vehicular access from the alley and pedestrian access from East Bay Avenue is maintained.

Finding:

- B. The deviations will not negatively impact the carrying capacity of the local vehicular circulation network.*

Facts in Support of Finding:

1. The proposed subdivision would increase the density by one (1) single-unit residential structure. According to the City's Traffic Engineer, East Bay Avenue has sufficient capacity to accommodate the minor increase in traffic.

Finding:

- C. The deviations will not negatively impact pedestrian circulation.*

Facts in Support of Finding:

1. The subdivision will not reduce or encroach within the abutting public right-of-way (East Bay Avenue).
2. The subdivision will not eliminate or impede pedestrian circulation provided that the necessary improvements are provided in accordance with applicable Public Works design standards and permitting.

Finding:

D. The resulting subdivision will be compatible with the pattern of surrounding subdivisions.

Facts in Support of Finding:

1. The original subdivision established 30-foot-wide lots on both sides of East Bay Avenue and throughout the majority of the Peninsula. The development of single-unit dwellings after the consolidation of lots and/or re-subdivision of lots has occurred within the neighborhood. Although many of the original lots remain, lot consolidation and re-subdivisions have occurred resulting in lots that vary from 30 feet wide to 90 feet wide in the area.
2. The abutting lots to the east and west have been merged or re-subdivided and are 90 feet wide and 45 feet wide, respectively.

Finding:

E. The resulting subdivision design and improvements will not be materially detrimental to the residents or tenants of the proposed subdivision or surrounding properties, nor to public health or safety.

Facts in Support of Finding:

1. The proposed subdivision to re-subdivide the existing parcel in a comparable manner to the underlying, legal lots would allow a single-unit dwelling to be constructed on each lot in accordance with the General Plan. Approval does not introduce an incompatible land use, and the resulting subdivision design would not be detrimental to the residents as vehicular and pedestrian access would be maintained. Any new development must be in accordance with the conditions of approval and the Municipal Code. The resulting lot widths are not inconsistent with the variety of lot widths and development pattern of the neighborhood.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2013-028, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 27TH DAY OF NOVEMBER, 2013.

Brenda Wisneski, AICP, Zoning Administrator

DRAFT

EXHIBIT "A"**CONDITIONS OF APPROVAL**

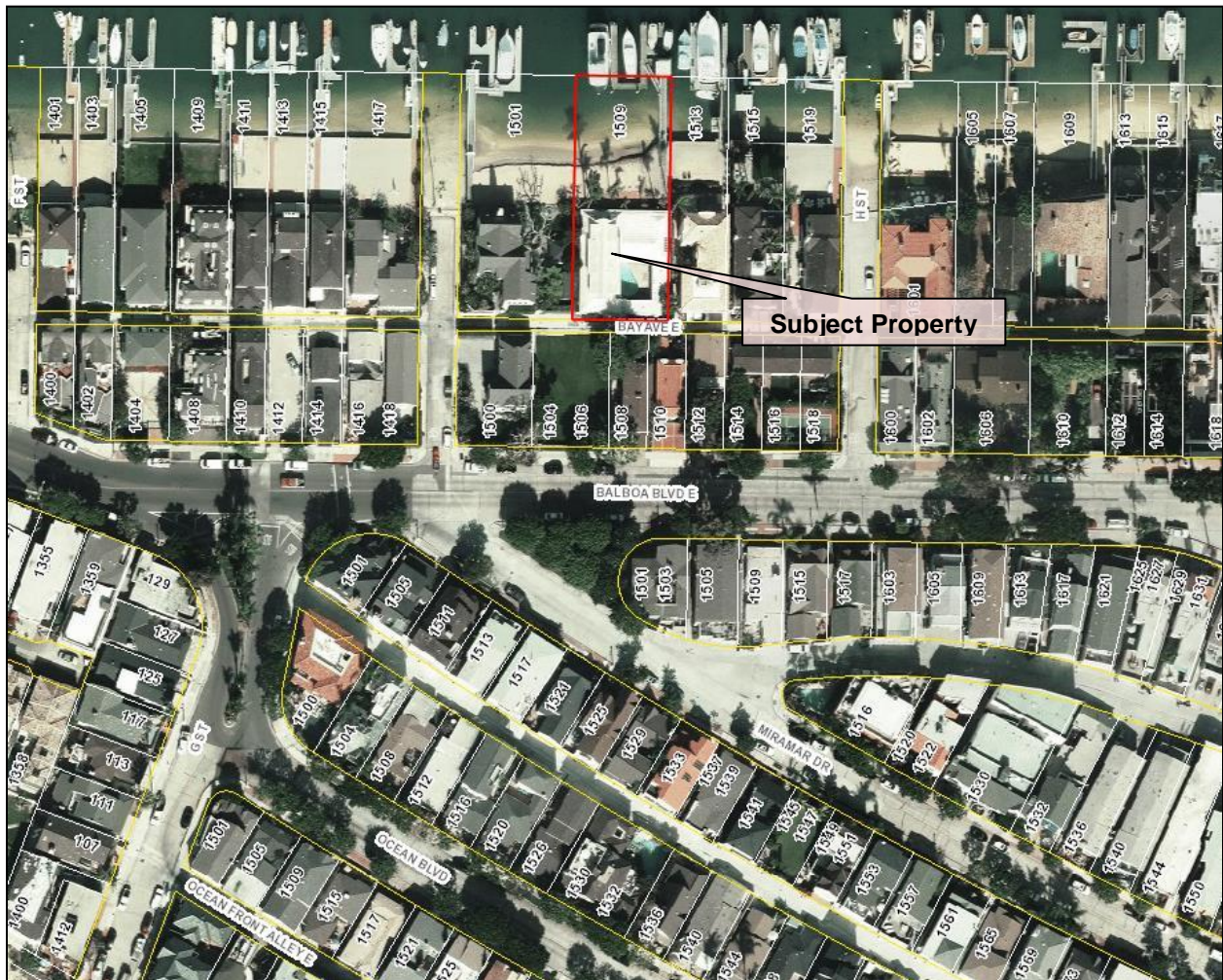
1. A parcel map shall be recorded. The map shall be prepared on the California coordinate system (NAD88). Prior to recordation of the map, the surveyor/engineer preparing the map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**
2. Prior to recordation of the Parcel Map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set on each lot corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
3. Prior to recordation of the Parcel Map, the demolition permit to remove all existing improvements on the site shall be inspected and deemed final by the Building Inspector.
4. Prior to issuance of building permits for the second single-family residence, Fair Share traffic fees shall be paid in accordance with the fee schedule in effect at the time.
5. All improvements shall be constructed as required by Ordinance and the Public Works Department.
6. The applicant shall reconstruct the existing broken and/or otherwise damaged concrete alley adjacent to the development site.
7. All above-ground improvements shall be setback a minimum of 5 feet from the property line abutting the alley. The 5-foot rear alley setback area shall contain concrete pavement and shall remain accessible to vehicular traffic at all times.
8. All existing, private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed.
9. An encroachment permit is required for all work activities within the public right-of-way.
10. All improvements shall comply with the City's sight distance requirement pursuant to City Standard 110-L and Municipal Code Section 20.30.130.

11. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.
12. All on-site drainage shall comply with the latest City Water Quality requirements.
13. Each new residence requires its own individual water service/meter and sewer lateral with cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover located within the public right-of-way.
14. All unused water services to be abandoned shall be capped at the main (corporation stop) and all unused sewer laterals to be abandoned shall be capped at the property line.
15. Pursuant to Chapter 13 of the Newport Beach Municipal Code, a 36-inch-box street tree is required for each development. However, because of the location and condition of the property, it is impractical to plant the tree at the project sites. Therefore, two 36-inch-box street trees shall be planted at locations designated by the City.
16. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the 1509 East Bay Avenue Parcel Map including, but not limited to, Tentative Parcel Map No. NP2013-028 (PA2013-208). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.
17. This Parcel Map shall expire if the map has not been recorded within 24 months of the date of approval, unless an extension is granted by the Director of Community Development in accordance with the provisions of Section 19.16 of the Newport Beach Municipal Code.

Attachment No. ZA 2

Vicinity Map

VICINITY MAP



Tentative Parcel Map No. NP2013-028
PA2013-208

1509 E. Bay Avenue

Attachment No. ZA 3

Tentative Parcel Map No. NP2013-028

County Tentative Parcel Map No. 2013-167

